

4548

04416

M Bayle

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-187639

DATE: November 23, 1977

MATTER OF: The Public Research Institute of the Center
for Naval Analyses of the University of
Rochester--Request for Reconsideration

DIGEST:

Where request for reconsideration presents no evidence demonstrating error in fact or law in previous decision and no arguments not previously considered, prior decision is affirmed.

The Public Research Institute of the Center for Naval Analyses of the University of Rochester (CNA) requests reconsideration of our decision in The Public Research Institute of the Center for Naval Analyses of the University of Rochester, B-187639, August 15, 1977, 77-2 CPD 116, concerning awards to other firms for certain study projects made under Department of Labor, Employment and Training Administration, request for proposals (RFP) No. ONP 76-7 (UIS 76-1). CNA's initial protest concerned projects 7, 7a, 7b and 7f under that RFP but the request for reconsideration is limited to project 7a (the effect of alternate partial benefit formulas on beneficiary part-time work behavior) and project 7b (the relationship between exhaustion rates and state unemployment insurance laws and economic factors).

With regard to project 7a, the relevant facts follow. On September 21, 1976, CNA learned by a telephone conversation with the contract specialist that the cost-reimbursement contract was awarded to another offeror. On September 24, 1976, representatives of CNA met with the contracting officer, the contract specialist, and other Labor personnel and were advised that CNA's revised proposal was not considered because it was late. On September 28, 1976, CNA received a letter from Labor stating that the cost-reimbursement contract awarded was based on proposed costs of \$60,246, compared to CNA's revised proposed costs of \$51,990. After consultation with counsel, CNA filed a protest here on October 13, 1976.

We held that when the protester was orally advised by the contracting agency that its revised proposal was not considered because it was received late, the protester then knew the complete

B-187639

basis for protest without waiting to receive a letter containing the amount of the cost reimbursement contract awarded and, to be timely under our Bid Protest Procedures, the protest should have been filed here within 10 working days of oral notification.

It was CNA's position in the initial protest, as it is here, that CNA's complete basis of protest was not known until September 28 when it learned that the contract was awarded to a higher priced offeror. CNA also states that it is inconsistent for our Office to find CNA's protest concerning project 7a to be untimely while at the same time finding its protests of projects 7, 7b and 7f to be timely, since the award of contracts for projects 7, 7b and 7f were announced at or about the same time as for project 7a. Further, CNA states that it did not learn of the complete basis for its protest on projects 7, 7b and 7f until sometime after September 28 when, as part of its investigation of circumstances surrounding the award of project 7a, Labor sources provided certain information.

Since the basis for CNA's protest concerning projects 7, 7b and 7f was first revealed to CNA by contracting agency representatives after September 28, those protests were timely filed; however, since CNA knew on September 24 that its proposal was not considered, it then was aware of its complete basis of protest regardless of whether its proposed cost was higher or lower than any other offeror.

CNA further states that it seems illogical that our Office should find that there is enough substance to CNA's protest on project 7a to warrant both a recommendation that the Federal Procurement Regulations be amended and a letter be sent to the Secretary of Labor regarding the "various deficiencies in the handling of this procurement for corrective action" and yet not find a "significant issue" so as to overlook the timeliness of the protest and grant individual relief to CNA.

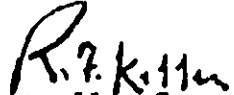
As stated in our August 15, 1977, decision, since we have considered the issue previously, it is not "significant" within the meaning of 4 C.F.R. § 20.2(c) (1976).

With regard to project 7b, CNA states that its protest--that it was improperly excluded from the competitive range on project 7b--was not denied by Labor in its initial response or at the conference held on March 28, 1977; it was not until 2 months after the conference when

B-187639

our Office requested an in camera inspection of Labor's records on project 7b that Labor first asserted that CNA had been included in the competitive range on project 7b and had declined an invitation to negotiate. CNA argued then and now that the timing of this assertion was clearly a vain attempt by Labor to explain away what the in camera inspection was to show, namely, that CNA should have been included in the competitive range on project 7b. However, we found no evidence in the record to support this charge.

Regarding both projects, CNA has not provided any facts or legal arguments which were not previously a part of the record and thoroughly considered by our Office in making the August 15, 1977, decision. Since CNA has not advanced any additional facts or legal arguments which show that our earlier decision was erroneous, we must affirm our August 15, 1977, decision.


Deputy Comptroller General
of the United States